

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) KAREN S. DAVIS,	)	
	)	
PLAINTIFF,	)	
vs.	)	Case No. <u>CIV-15-1358-W</u>
	)	
(2) PHYSICIANS MUTUAL	)	
INSURANCE COMPANY,	)	
	)	
DEFENDANT.	)	

**NOTICE OF REMOVAL**

Defendant Physicians Mutual Insurance Company, pursuant to 28 U.S.C. §§1332, 1441, and 1446, removes this action from the District Court of Oklahoma County, Oklahoma (where it was filed as Case No. CJ-2015-6472) to the United States District Court for the Western District of Oklahoma. As the grounds for removal, Defendant states as follows:

1. On November 25, 2015, Plaintiff filed suit in the District Court of Oklahoma County, State of Oklahoma, against Defendant. The case was assigned Case No. CJ-2015-6472.

2. The Petition ("State Court Action") was served on or about November 30, 2015, via certified mail. A true and correct copy of the State Court Action as received is attached as Exhibit 1. The Return Receipt of the certified mail was filed December 3, 2015 and is attached as Exhibit 2.

3. Defendant has not yet filed an answer or responsive pleading in the State Court Action. In filing this Notice of Removal, Defendant does not waive any defense or counterclaim that may be available to it.

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332. The action may be removed to this Court by Defendant pursuant to 28 U.S.C. §§1441 and 1446.

- a. Complete diversity exists between the parties (Plaintiff is a citizen of Oklahoma, and Defendant is a Nebraska corporation with its principal place of business located in Omaha, Nebraska).
- b. Based upon the allegations made in the Petition, which seeks both actual and punitive damages as well as a declaratory judgment, the amount in controversy is in excess of \$75,000, exclusive of interest and costs.

5. Removal of this action from the District Court of Oklahoma County, State of Oklahoma, to this Court is, therefore, proper under 28 U.S.C. §1441 because this Court would have had original jurisdiction of the action under 28 U.S.C. §1332 had the action been initially filed in this Court.

6. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b) because it is filed within thirty (30) days of Defendant's receipt of the State Court Action on or about November 30, 2015, and within one (1) year of the commencement of the action. *See* Ex. 1.

7. Written notice of filing of this Notice of Removal will be given to Plaintiff, by and through her counsel in the State Court Action. Also, as required by 28 U.S.C. §1446(d), a copy of this Notice will be filed with the Clerk of the District Court of Oklahoma County, State of Oklahoma, the court in which the State Court Action was filed.

8. All papers served on Defendant in the State Court Action at the time of this removal, consisting of the Summons and Petition, are attached as Exhibit 1, pursuant to 28 U.S.C. §1446(a) and LCvR 81.2.

9. Pursuant to LCvR 81.2, a true and correct copy of the docket sheet in the State Court Action, current through the date of this filing, is attached as Exhibit 3.

10. No motions are currently pending in the State Court Action.

WHEREFORE Defendant respectfully requests that the above referenced action now pending in the District Court of Oklahoma County, State of Oklahoma, be removed therefrom and proceed in this Court from this day forward as an action duly removed.

Respectfully submitted,

DOERNER, SAUNDERS, DANIEL &  
ANDERSON, L.L.P.

By: *s/Jon E. Brightmire*

Jon E. Brightmire, OBA No. 11623  
Two West Second Street, Suite 700  
Tulsa, Oklahoma 74103  
Telephone (918) 591-5258  
Facsimile (918) 925-5258  
[jbrightmire@dsda.com](mailto:jbrightmire@dsda.com)

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on December 16, 2015 a true and correct copy of the above and foregoing was mailed, with proper postage thereon, to:

Tara LaClair  
Mary H. Tolbert  
Crowe & Dunlevy  
324 N. Robinson Ave., Suite 100  
Oklahoma City, OK 73102

*s/Jon E. Brightmire*

Jon E. Brightmire

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